



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: IA/50060/2013

THE IMMIGRATION ACTS

Heard at Field House

On 27th June 2014

Determination

Promulgated

On 15th August 2014

Before

UPPER TRIBUNAL JUDGE KING TD

Between

MR HAITHAM AL-FAROH

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Moran, Legal Representative of Alex Moran Immigration and Asylum

For the Respondent: Ms Pettersen, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Syria. He sought to obtain a permanent residence card as a family member of an EEA national. That application made on 25th March 2013 was refused by the respondent in a decision dated 20th November 2013.

2. Although the appellant had produced considerable evidence that he was working there was a paucity of evidence that the sponsor was somebody who was exercising treaty rights. In particular there was little evidence that the EEA sponsor was exercising treaty rights in the United Kingdom before 2011, given that there was a requirement for a continuous period of five years of treaty rights before qualification for permanent residence.
3. Indeed when attempts were made to verify the sponsor's claimed employer it was noted that the company Mega Services Limited was listed as dissolved since 2009 and attempts to contact that company by telephone proved to be unsuccessful.
4. The issue of Article 8 ECHR was also considered and the context of family and private life within the Immigration Rules. It was considered that the appellant did not succeed on either basis outside of the Regulations.
5. Grounds of appeal were submitted against that decision essentially that the removal of the appellant would be in breach of the United Kingdom's obligations under the Refugee Convention. It was expressed that the decision made was tantamount to the revocation of the appellant's existing residence card leaving the appellant with no valid leave to remain in the United Kingdom. It was suggested that removal to Syria would be in breach of the fundamental human rights.
6. The appeal came before First-tier Tribunal Judge Cope on 10th February 2014. In effect the Judge considered that the reasons for refusal were well-founded and that there was very little evidence to support the suggestion that the sponsor was exercising treaty rights for the continuous period before the application in March 2013. It was not sufficient that the sponsor was relying upon the appellant's earnings, it must be shown that the sponsor herself was exercising treaty rights.
7. The Judge declined to deal with the issue of human rights on the basis that there was no removal direction in place and indicated that it was always open to the appellant to make a formal application for asylum should that be the case.
8. Grounds of appeal were submitted against that decision on the basis that it was unnecessary for there to be removal directions for the safety of removal to be considered in the context of **JM (Liberia) v Secretary of State [2006] EWCA Civ 1402**. Permission to appeal was granted and thus the matter came before me in pursuance of that grant.
9. Ms Pettersen, who represents the Secretary of State, contended that the grounds of appeal were in general misconceived. The appellant had been granted a residence card under the 2006 Regulations on 14th June 2010 which continued until 14th June 2015. There had been no revocation of that leave so there was no question of the appellant being removed prior to that date. Mr Moran, who represented the appellant, requested a two

month adjournment in order for the accuracy of that statement to be confirmed. There was no imminent likelihood of the appellant being removed from the jurisdiction. There was time enough for the proper evidence to be obtained as to the sponsor's working and indeed a proper basis for asylum to be presented if indeed that was intended.

10. I indicated that if the decision of 14th June 2010 had not been revoked that the appellant consider his position in pursuing this particular appeal.
11. Subsequent to that hearing on 10th July 2014 I have received a letter from the appellant's solicitors confirming that they wish to withdraw the appeal.
12. Under the Rules once the Upper Tribunal is seized of an appeal it can only be withdrawn by the party with leave.
13. Leave for the appeal to be withdrawn is granted as requested.
14. Thus the appeal before the Upper Tribunal is withdrawn such that the original decision before the First-tier Tribunal stands, namely that the appellant's appeal in respect of the 2006 Regulations stands dismissed.

Signed

Date

Upper Tribunal Judge King TD